

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	X	No. 1:11-CV-02712 (AKH)
SANDAWANA HOLDINGS LTD.,	X	
	X	NOTICE OF MOTION FOR
Plaintiff,	X	VACATUR OF THE COURT'S
	X	AUGUST 19, 2011 AND
-v.-	X	NOVEMBER 21, 2011 ORDERS
	X	AND FOR DISMISSAL OF THIS
HENRY DUNAY,	X	ACTION, OR, IN THE
	X	ALTERNATIVE, FOR A STAY
Defendant.	X	PENDING APPEAL
	X	
-----	X	ORAL ARGUMENT REQUESTED

PLEASE TAKE NOTICE that upon the annexed Declaration of Charles E. Colman and accompanying Exhibits, the annexed Declaration of Henry Dunay, Defendant's Memorandum of Law, and all other papers, pleadings, and proceedings had and filed herein, Defendant Henry Dunay will move this Court, before the Honorable Alvin K. Hellerstein, at the United States Courthouse, 500 Pearl Street, New York, New York, on a date and time to be determined by the Court, for an Order 1.a) pursuant to Rule 60 of the Federal Rules of Civil Procedure and/or the Court's inherent powers, for vacatur of the Court's August 19, 2011 and November 21, 2011 Orders (and their accompanying reasoning, embodied in court proceeding transcripts), and 1.b) dismissal of this action under Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction, or 2) in the alternative, for a stay on the effect of the aforementioned Order(s) pending Defendant's appeal to the U.S. Court of Appeals for the Second Circuit.

The grounds for the requested vacatur are 1) the Court's lack of subject-

matter jurisdiction over this dispute at the relevant time(s); 2) factual and legal mistakes made by the Court in issuing its November 21, 2011 Order; 3) the repeated misrepresentations and misconduct of Plaintiff Sandawana Holdings Ltd. (on its own and/or through counsel); and/or 3) the equities of the situation, including but not limited to Sandawana's demonstrated intention to abuse the Court's November 21st Order, if the Court allows the Order to stand.

In the event the Court declines to vacate its August 19th and/or November 21st Orders, Defendant Henry Dunay will move the Court for a stay of the effect of those Orders pending appeal, under the Court's inherent equitable powers, Federal Rule of Civil Procedure 62, and/or other source(s) of authority.

Dated: New York, New York
December 5, 2011

CHARLES COLMAN LAW, PLLC



By:

Charles E. Colman (CC-1133)
1776 Broadway, 21st Floor
New York, NY 10019-2002
(917) 515-5875 (ph)
(917) 534-6294 (fax)
cc@charlescolmanlaw.com

Attorney for Defendant Henry Dunay